



18360 Crystal

UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

June 3, 1981

B-197439

~~Do not make available to public reading~~

The Honorable Charles B. Rangel
House of Representatives

Dear Mr. Rangel:

This responds to your letter of December 15, 1980, regarding the effect of our decision of July 29, 1980, on existing minority enterprise small business investment companies (MESBICs). We apologize for the delayed response, but it was not until very recently that we received information from the Small Business Administration that we needed before responding.

Our decision of July 29, 1980, held that, with some exceptions, SBA did not have authority to leverage Federal money invested in MESBICs. You raised the issue of how to deal with existing MESBICs that might be threatened with financial ruin as a result of that decision. You presented, as an example, the spending commitments made by one MESBIC in reliance on SBA's past practice of leveraging Federal money. And you suggested that we allow funds to be leveraged for existing MESBICs.

We appreciate your concern about the effect of our decision on existing MESBICs. However, we cannot authorize SBA to leverage Federal money except where it is permitted by statute. In two situations we think it would be inequitable to require strict adherence to our decision of July 29, 1980. One is where funds were provided to MESBICs as leverage against Federal funds prior to our decision. As to those MESBICs, we do not suggest that SBA take action to recover refunds. Further, we would not object to SBA honoring any formal commitments it made prior to our decision--i.e., where SBA approved an application for leveraging that included leveraging of Federal funds, and so notified the applicant. According to information SBA furnished us, there was only one such unfulfilled commitment

[Effect of [SBA] Decision on Minority Enterprise Small Business Investment Companies]

517148 - 088336

B-197439

at the time of our decision. Beyond these cases, however, we are aware of no situation where the equities warrant leveraging of Federal money that our decision would not allow to be leveraged.

We do regret that some investment companies may suffer hardships if their Federal funds are not leveraged. We point out that the law does not compel SBA to provide leveraging even where a company has eligible money. There have been instances where SBA has refused to provide leveraging to eligible companies because of credit or other problems. An investment company should not rely on SBA leveraging until SBA has made a commitment to provide the leveraging funds.

We hope this responds to your inquiry.

Sincerely yours,

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel